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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,114	10/15/2001	Richard H. Jones	PHB 34-221A	3750

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,114

Applicant(s)

JONES ET AL.

Examiner

David Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of the appeal brief filed on 04/07/06, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Response to Arguments

1. Applicant's arguments, see Appeal Brief, filed 04/07/06, with respect to claims 20-36 have been fully considered and are persuasive. The final rejection of claims 20-36 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 20,23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (EP 0709812).

Regarding claims 20 and 23, Watanabe discloses a communication device and a method of operating a communication device in alerting a user of the communication device of an incoming message, comprising a receiver operable to receive an incoming message excluding at least one of a melody identification signal and a melody signal (see col. 3, line 54 to col. 4, line 15); a processor operable to compose a melody corresponding to the incoming message subsequent to a reception of the incoming message (see col. 3, line 54 to col. 4, line 15 and col. 37-51).

Regarding claim 25, Watanabe discloses a communication device, comprising a receiver operable to receive an incoming message excluding at least one of a melody identification signal and a melody signal (see col. 3, line 54 to col. 4, line 15); and a processor operable to control display of the incoming message into a melody subsequent to a reception of the message by said receiver (see col. 3, line 54 to col. 4, line 15, col. 5, lines 29-35, lines 50-58 and col. 6, lines 1-15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 21-22, 24, 26-29, 31-32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (EP 0709812) in view of Morishima (US Patent Number 6075998).

Regarding claims 21-22; 24, 26-29, 31-32 and 34-35, Watanabe does not disclose wherein said processor is further operable to divide the incoming message into a plurality of fields to thereby compose the melody; the plurality of fields including a tempo field, a repetitive play field, and at least one note field; wherein the message is a numeric message; wherein the message is an alphanumeric message. However, Morishima discloses wherein said processor is further operable to divide the one of the numeric message, the alphanumeric message and the voicemail message into a plurality of fields to thereby compose the melody (see col. 6, lines 18-63; fig. 5) and the plurality of fields including a tempo field, a repetitive play field, and at least one note field (see col. 4, lines 1-61 and col. 5, lines 36-59); wherein the message is a numeric message (see col. 6, lines 18-63; and fig. 5); wherein the message is an alphanumeric message (see col. 6, lines 18-63; and fig. 5; 1st numeral data D1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Morishima to Watanabe in order to allow the sender to send message composed music by the sender.

4. Claims 30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (EP 0709812) in view of Morishima (US Patent Number 6075998) and further in view of Willner et al (US Patent Number 6064666).

Regarding claims 30, 33 and 36, the method and the communication device of Watanabe in view of Morishima is silent to disclose wherein the message is a voice mail message. However, Willner et al teach the message is a voice mail message (see col. 19, lines 43-62,

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converting a voice mail message to text). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Willner et al to the method and the communication device of Watanabe in view of Morishima in order to allow the user to compose the melodic sound using voice mail message.

Conclusion

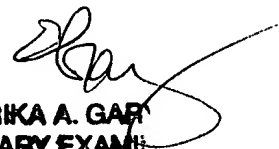
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DN

David Nguyen


ERIKA A. GAR
PRIMARY EXAMINER